



2FW

April 16, 2007

Commissioner for Patents  
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P.O.Box 1450  
Alexandria  
Virginia 22313-1450

Dear Sirs,

The application Number 11/702,026 is **not a new application**. It is a corrected copy of application Number 10/713,534 and was requested by examiner Kent L. Bell (phone number) (571) 272 0973. This marked-up corrected response (application number 10/713,534) should be directed to examiner, Kent Bell. I have enclosed a copy of his request.

Respectfully,

Earl Cully  
Heritage Trees, Inc.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
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 Alexandria, Virginia 22313-1450  
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/702,026	02/05/2007	Earl Cully	

CONFIRMATION NO. 7519

FORMALITIES  
 LETTER

Date Mailed: 04/02/2007

Earl Cully  
 846 Hoagland Road  
 Jacksonville, IL 62650

## NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

### FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$400.00 petition fee (37 CFR 1.17(f)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

If the above-identified application contains a priority claim under 37 CFR 1.55 or benefit claim under 37 CFR 1.78 of a prior-filed application that was present on the filing date of the application and applicant wants to rely on 37 CFR 1.57(a) to add inadvertently omitted material to the above-identified application, applicant must file a petition under 37 CFR 1.57(a) accompanied by the \$400.00 petition fee (37 CFR 1.17(f)) within **TWO MONTHS** of the date of this Notice. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*
- The statutory basic filing fee is missing. *Applicant must submit \$ 200 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing. *A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required. Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.*

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement claim(s) commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121 is required. Claims must be consecutively numbered and the same claim number cannot be used for more than one claim. See 37 CFR 1.126.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **\$660** for a non-small entity

- **\$200** Statutory basic filing fee.
- The application search fee has not been paid. Applicant must submit **\$300** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **\$160** to complete the examination fee for a non-small entity.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://portal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

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*If you are not using EFS-Web to submit your reply, you must include a copy of this notice.*



Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

PART 2 - COPY TO BE RETURNED WITH RESPONSE

**Notice of Non-Compliant Amendment  
(37 CFR 1.121) for Applications Under  
Accelerated Examination**

Application No.

110743534

Examiner

Kent L. Bell

Applicant(s)

CULLY, EARL

Art Unit

1661

APR 18 2007

THE MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Since this application has been granted special status under the accelerated examination program, extensions of time under 37 CFR 1.136(a) will be permitted.

The amendment document filed on 7/7/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☒ 1. Amendments to the specification:

☐ A. Amended paragraph(s) do not include markings.

☐ B. New paragraph(s) should not be underlined.

☒ C. Other A separate specification "marked-up", showing amendments,

☐ 2. Abstract: was not included with applicant's response

☐ A. Not presented on a separate sheet. 37 CFR 1.72.

☐ B. Other \_\_\_\_\_

☐ 3. Amendments to the drawings:

☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.

☐ C. Other \_\_\_\_\_

☐ 4. Amendments to the claims:

☐ A. A complete listing of all of the claims is not present:

☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).

☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).

☐ D. The claims of this amendment paper have not been presented in ascending numerical order.

☐ E. Other: \_\_\_\_\_

☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment must be resubmitted**.

Applicant is given **one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction**, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section of the non-compliant amendment in compliance with 37 CFR 1.121**.

**NO Extensions of time** under 37 CFR 1.136(a) will be permitted.

**Failure to timely respond** to this notice will result in:

**Abandonment of the application** if the non-compliant amendment is a **non-final amendment or an amendment filed in response to a Quayle action**; or

**Non-entry of the amendment** if the non-compliant amendment is a **preliminary amendment or supplemental amendment**.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

U.S. Patent and Trademark Office  
PTOL-324AE (08-06)

**KENT BELL** of Non-Compliant Amendment (37 CFR 1.121)

**PRIMARY EXAMINER**

Part of Paper No. 20061012

Copied from 11702026 on 07/31/2008



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